

**Are We Being Served?**  
*Policies on Accessing Goods and Services*

Policy Paper 95



Are We Being Served?

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# Executive Summary

In our daily lives we all depend on buying goods and obtaining services. This paper is about ensuring so far as possible that all of us - and particularly the most vulnerable in our society - are able to buy the goods and obtain the services we need easily, efficiently and on fair terms – and that we are able to get things put right when they go wrong. The fundamental entitlement to an honest and straightforward approach and a high quality of service is the same in the public sector for services provided as of right as in the private sector for goods and services purchased. People feel equally frustrated whether they are let down by public sector organisations or by private.

**We will introduce a new *Universal Service Code*** to secure for the public a quality of service that complies with the principles of responsiveness, informed choices, consumer protection and effective redress set out in this paper. This code would be mandatory in the public sector and a guarantee of compliance with the Code will also be required of all businesses seeking major contracts with or franchises from local, state or national government. Compliance with the Code will be encouraged throughout the private sector and reportable by larger companies.

**To ensure a fair marketplace,** we will take steps to ensure that competition is improved and that local competition is promoted, including:

- Reducing the share of the UK market that will require an automatic reference to the Competition Commission from 25% to 15%.
- Encouraging the OFT to investigate areas where dominance in the market place threatens competition.
- Establishing a local competition office within the OFT for the promotion of local and regional competition and to investigate cases where local or regional competition is unduly restricted.
- Introducing a compulsory 'local competition' test for all planning applications for new retail developments and requiring that they show beneficial effects.
- Requiring developers to indemnify local authorities against the costs of any appeal against planning permission.
- Streamlining and speeding up competition investigations by redefining the roles of the OFT and the Competition Commission, which presently have a cumbersome overlap, so that the OFT will act as an investigating and enforcement agency, tasked to bring cases to the Competition Commission for resolution.
- Changing the way lucrative public contracts are allocated to enable smaller and more local businesses to secure them.

**To ensure people are able to make informed choices,** we will:

- Require appropriate products to be sold with the key information highlighted at the time of supply in clear summary boxes to enable people to make the relevant comparisons.
- Work through the Energy Saving Trust and the Carbon Trust (which we will merge into one organisation) to:
  - Develop a preferred carbon measurement and build consumer awareness and familiarity with it.
  - Develop an assurance scheme for all carbon labels.

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- Develop and expand the use of the BSI PAS 2050 Standard and the Code of Good Practice for claims about product-related life cycle greenhouse gas emissions.
- Ensure that any organisation claiming to comply with the Universal Service Code has to provide potential customers and clients with sufficient information to enable them to make well-informed and reasonable assessments of the financial consequences of the transactions they make.
- Oblige all suppliers of goods and services, whether in the private or public sectors, to provide all clients and customers with a brief summary of their key statutory rights at the point of sale.
- Extend the requirement for large companies to produce an Operating and Financial Review so as to require them to publish a Social Responsibility Report, subject to audit, reporting on their compliance with the Universal Service Code, their compliance with the duty to trade fairly, their corporate social responsibility record and the environmental and sustainability implications of their activities.

### **To make sure people are properly protected, we will:**

- **Introduce a general *duty to trade fairly***, enforceable by individuals, to prevent unscrupulous companies from profiting from unfair commercial practices. We will make this a private right which individuals can use, if necessary, in the courts.
- Make it compulsory for companies taking substantial deposits from customers or clients to hold deposit protection insurance to protect their clients against their insolvency, unless an indemnity scheme approved by the OFT is in operation.
- Legislate to provide that where a company has taken payments in advance from clients or customers and then gone into insolvency leaving such clients or customers without recourse, the directors will be prohibited from acting as directors of any other company without the approval of the OFT.
- Set up a public warning system to make information held about current fraudulent activity publicly available, co-operating more effectively with international crime agencies and our European partners to share intelligence about dubious companies and organisations.
- Take specific action to protect children as vulnerable consumers, including regulating brand websites in the same way as other advertising and requiring companies to promote family life and harmony and co-operation between peers.

### **To make redress and enforcement more streamlined and accessible, we will:**

- Promote better complaints handling procedures within organisations (and encourage apology where appropriate).
- Encourage trade and professional organisations to run effective dispute resolution systems.
- Introduce an *umbrella ombudsman service* to make existing ombudsman services easier to access, to harmonise the principles and methods in which ombudsman services work and to encourage the establishment in ombudsman services in new sectors of the economy.
- Increase the resourcing of the Trading Standards Service and broaden their role to enable them to take up more individual complaints against traders.
- Enable Citizens Advice to provide advisers at courts on a regular basis to help particularly with small claims.

- Simplify the procedures for super-complaints under the Enterprise Act.

**To provide the most appropriate statutory environment, we will:**

- Take responsibility for representing the interests of consumers out of the hands of DBIS and move the Minister for Consumer Affairs from DBIS to an independent cross-cutting senior ministerial post as Minister for Goods and Services, with the ability to attend cabinet to speak on relevant matters; the new minister will have responsibility for championing the interests of people accessing goods and services in both the public and the private sectors.

# 1 Introduction – A Policy for People

1.0.1 Under Labour and Tory governments alike it has become more and more difficult to get things done. Whether it is getting the electricity bill right, getting the best railway fare out of the tangled web of ticket options, getting someone out to repair the phone line at a time you'll be there, getting the correct benefits or getting someone to deal with a complaint about rubbish collection, we are all individuals struggling to get a decent service from the organisations which are supposed to serve us.

1.0.2 IT has brought massive changes in the way our world works. In many ways it has brought great benefits in efficiency, in spreading information and in helping our economy work. But in the way in which big organisations now deal with their individual clients and customers, IT has increasingly led them to be impersonal and remote, causing frustration, distrust and hostility.

1.0.3 The people hit hardest by these developments have been those most in need - the elderly, those in poverty, those on benefits. Where the internet is necessary to get goods and services, those who do not have a computer or the skills to use one are the most disadvantaged. When the ability is required to talk articulately over the telephone, it is those most likely to have the problems who are the least likely to have that ability.

1.0.4 In our daily lives we all depend on buying goods and obtaining services. This paper is about ensuring so far as possible that all of us, and particularly the most vulnerable in our society, are able to buy the goods and obtain the services we need easily, efficiently and on fair terms – and that we are able to get things put right when they go wrong.

1.0.5 Liberal Democrats recognise that one of the best ways of providing consumer protection is to have free and fair markets, so we have set out in this paper to keep regulation to a minimum and ensure businesses are free to innovate and develop better practices.

1.0.6 Liberal Democrats do not divide the world into consumers and producers, so, where possible, we refer to *people* rather than to *consumers*. Where we refer to *consumers* - in the interests of clarity or in the context of consumer protection law - our general approach is still determined by our one overriding principle: that everyone in society is entitled to fair dealing and a high quality of service.

1.0.7 This fundamental entitlement to an honest and straightforward approach and a high quality of service is the same in the public sector for services provided as of right as in the private sector for goods and services purchased. People feel equally frustrated whether they are let down by public sector organisations or by private.

1.0.8 Our fundamental aim is to minimize the frustrations and disappointments caused by poor service and poor communication. We want to improve the daily experience of millions of people, who find it frustrating and troublesome trying to deal with big organisations they perceive as increasingly remote and unhelpful. We will find ways to tackle the impenetrability and impersonality of what some call "Faceless Britain".



## 2 Vision and Values

### 2.1 A Fair Marketplace

2.1.1 Liberal Democrats believe that markets must operate freely, fairly and effectively, but subject to sufficient regulation to ensure that the needs of the consumer are not overborne by the profit motive of the provider. Competition is a central need for markets to operate in the interests of the people they serve.

2.1.2 Liberal Democrats also want the needs of local communities to be met locally. Markets which operate competitively at a local level are much more likely than local monopolies to respond to local needs.

### 2.2 Responsiveness

2.2.1 In the public sector services must be delivered at both the local, state and UK-wide level in a way in which all clients, be they patients, pupils, parents, claimants, householders or taxpayers, can obtain access to needed services easily, efficiently, humanly and locally.

2.2.2 In the private sector too we seek to improve the quality of service to clients. It matters little in practical terms to customers of the utility companies, who provide their gas, electricity, water and communications, or of the transport companies, who provide their bus and rail services, whether they are privately or publicly owned. What matters are the quality, accessibility and affordability of their services.

2.2.3 We are determined to ensure that organisations make it easy for the people they serve to contact them, to obtain information from them and to secure the services they provide.

### 2.3 Informed Choices

2.3.1 Throughout the economy, people should have the information they need to make informed choices between the options available. They should have sufficient information to assess value for money, the commitments they undertake, what they have a right to receive, the nature of the organisations they are dealing with and the health, safety, environmental and sustainability implications of the choices they make.

2.3.2 People are also entitled not to be fed misleading information. While Liberal Democrats are fully committed to the protection of freedom of expression, there has to be control of false claims in advertising and marketing.

### 2.4 Consumer Protection

2.4.1 Much progress has been made in consumer protection, often through initiatives started in Europe, but more is needed. Well understood and effective regulation must protect people from unfair and unscrupulous practices as well as from fraud. Pressure selling and dishonest marketing need to be prevented. Children need particular protection.

### 2.5 Effective Redress

2.5.1 When things go wrong people need easy access to effective forms of redress. We recognize there can be no one path to redress of complaints against suppliers. There will inevitably and desirably be a hierarchy of redress, from the simple making and handling of complaints (which should in well run organisations lead to resolution of the vast majority of

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complaints) through to litigation as a last resort. Action by regulators and other public agencies has a vital part to play, particularly in addressing widespread abuses, and they must be accessible to the public.

## 3 Our Central Proposals

### 3.1 Liberal Democrat Proposals

3.1.0 In this paper we set out a number of core proposals to make our vision a reality. We will:

3.1.1 Take steps to ensure that competition is improved and that local competition is promoted.

3.1.2 Introduce a new Universal Service Code to secure for the public a quality of service that complies with the principles of responsiveness, informed choices, consumer protection and effective redress set out in this paper.

3.1.3 Introduce a general *duty to trade fairly*, enforceable by individuals, to prevent unscrupulous companies from profiting from unfair commercial practices.

3.1.4 Protect customers' payments in advance against insolvency with compulsory deposit protection insurance and indemnity schemes and tighter monitoring of directors of companies becoming insolvent after taking such payments.

3.1.5 Require large companies to publish, in place of the Operating and Financial Review currently required, a Social Responsibility Report, subject to independent audit, reporting on:

- Their compliance with the Universal Service Code.
- Their compliance with the duty to trade fairly.
- Their corporate social responsibility record in such matters as fair trade, employment practices, responsible suppliers.
- The environmental and sustainability implications of their activities.

This requirement will also give effect to a long held Liberal Democrat view that as the price of limited liability companies owe a duty to society which goes wider than their duty to their shareholders.

3.1.6 Introduce an *umbrella ombudsman service* to make existing ombudsman services easier to access, to harmonise the principles and methods in which ombudsman services work and to encourage the establishment in ombudsman services in new sectors of the economy.

3.1.7 Amend the Enterprise Act to give the OFT and other regulators expanded fining powers and the power to order organisations in breach of EU and domestic regulations to pay compensation to customers and clients who have suffered loss by reason of such breaches.

3.1.8 Take responsibility for representing the interests of consumers out of the hands of DBIS and move the Minister for Consumer Affairs from DBIS to an independent cross-cutting senior ministerial post as Minister for Goods and Services, with the ability to attend cabinet to speak on relevant matters; the new minister will have responsibility for championing the interests of people accessing goods and services in both the public and the private sectors.

3.1.9 Strengthen the role of local Trading Standards Departments to ensure effective enforcement of consumer protection legislation and to offer representation to consumers who fall victim to non-compliant companies.

3.1.10 Redefine the roles of the Office of Fair Trading and the Competition Commission so that the OFT becomes an investigating and enforcement agency, while the Competition Commission will exercise a decision-making function.

## 4 Creating a Fair Marketplace

### 4.1 Competition

4.1.1 The past generation has seen a revolution in the economy. New methods of production, distribution and communication have led to greater choice and more affordability across large areas of the economy. However, by and large there has been no similar revolution in customer service – either in business or the public sector.

4.1.2 Liberal Democrats believe that in the private sector a principle reason for poor service and unresponsiveness is lack of competition. That means that we must constantly strive to improve competition, badly damaged by the growth of very large organisations, particularly in the financial sector. That same development rendered the British economy particularly vulnerable to the credit crunch and banking collapse.

4.1.3 Labour and Conservative governments alike allowed the banking centralisation to take place which robbed local economies of the local infrastructure enjoyed by their competitors in North America and Europe. It is widely recognised that over-consolidation was one of the key drivers of the disastrous banking crisis of 2008. We therefore reject the collusion with monopoly power that has been such a feature of New Labour rule, and Conservative rule before it. The current government prefers to deal with a handful of over-powerful companies in any sector than dealing with many more competitive minnows.

4.1.4 We believe that more competition would lead to improved service, both in the private and public sectors. At present companies can take customers for granted because they have so few competitors. This has especially affected contracts placed with service providers by the public sector, because in a range of sectors the number of companies available to bid for local government tenders has shrunk so far.

4.1.5 Liberal Democrats are emphatically on the side of business, but we are also intent on rebuilding a culture of local enterprise and to see competition at a local level. Local monopolies can be as damaging to competition and therefore to service to people in their area as national ones.

4.1.6 To revive the UK economy as a whole and drag the UK out of recession, we must support business innovation, stimulate competition, encourage thriving innovative local businesses and reduce the tendency to monopoly organisations nationally and locally.

4.1.7 To these ends we will:

- Reduce the share of the UK market that will require an automatic reference of an acquisition or merger to the Competition Commission from 25% to 15%.
- Encourage the OFT to investigate areas where dominance in the market place threatens competition, even where there is not an impending merger or acquisition and not yet a super-complaint from a qualifying super body, with a view to bringing cases to the Competition Commission.
- Introduce a requirement for reference to the Competition Commission of any acquisition or merger that would unacceptably reduce competition in the relevant sector across a defined locality or region.
- Establish a local competition office within the OFT for the promotion of local and regional competition and to investigate cases where local or regional competition is unduly restricted.

- Give trading standards officers the power to refer cases of uncompetitive market share at a local level to the OFT for consideration of a reference to the local competition office of the Competition Commission.
- Insist that all planning applications for major new developments show that they will have beneficial economic effects, as in some parts of the USA.
- Introduce a compulsory 'local competition' test for all planning applications for new retail developments.
- Require developers to indemnify local authorities against the costs of any appeal against a refusal to grant planning permission for substantial developments. Fear of the costs of planning appeals has allowed monopolistic retailers to build up.
- Reform business rates, as set out in Policy Paper 81, *Reducing the Burden* (2007).
- Refuse mergers between local public sector bodies – which have a history of proving costly – unless proponents can demonstrate a public benefit flowing from the merger and that their most vulnerable clients, patients or pupils will not suffer.
- Streamline and speed up competition investigations by redefining the roles of the OFT and the Competition Commission, which presently have a cumbersome overlap, so that the OFT will act as an investigating and enforcement agency, tasked to bring cases to the Competition Commission for resolution.

## 4.2 Organisational Size and Shape

4.2.1 Small organisations are not necessarily more responsive, or more human for customers to deal with, but they often are. That is not to say that all large organisations are bad or that all small organisations are good. Nor is it generally the role of politicians to specify what shape and size organisations should be. However, government action and legislation can help foster the conditions where smaller organisations can more easily flourish and compete effectively with larger ones, particularly at a local level.

4.2.2 We will therefore foster the conditions for smaller and medium-sized businesses to compete successfully with larger companies for public sector contracts, particularly at a local level, by:

- Ensuring that government departments break up large contracts into smaller packages where practical and encouraging local authorities and any other organisations who are responsible for spending public money to do the same.
- Providing training for local providers in the bidding process.
- Having regard, when assessing tenders, to the overall benefits to the local economy of employing small local providers, not just strict value for money of the particular contracts.
- Simplifying the tender process.
- Ensuring prompt payment.

## 5 A New Universal Service Code

5.0.1 As well as a market that works well, people should receive a decent quality of service in their daily lives. In this paper we explore how to make improvements in the responsiveness of organisations, in the information people receive when they make choices, in consumer protection, to ensure that people are not unfairly treated, and in ensuring that they have access to effective redress when things go wrong.

5.0.2 We recognize that what constitutes a decent quality of service will be different in different sectors of the economy. It follows that the where regulation is appropriate, it will vary from sector to sector; what might be appropriate regulation for the manufacture of motor cars might be wholly inapplicable to the provision of motor insurance. Nevertheless, we have been able to define a set of common principles which delineate the quality of service people ought to receive from the organisations from which they obtain goods and services across the whole economy. We will therefore introduce a new *Universal Service Code* ("the Code"), which will embody these general principles. We will expect the Code to be implemented by all who are bound by it and will take measures to ensure that that comes about.

5.0.3 First, compliance with the Code will be required of all who interact with members of the public across the public sector, through local, state or national government agencies and departments. Thus it will apply compulsorily to the HMRC and the courts service, to local social services and to waste collection services, to the NHS and to Jobcentres and so on. It is our firm view that the Code could transform the relationship between government and governed, locally and nationally and make a reality of what now all too often seems a hollow myth, that government is there to serve the people.

5.0.4 Secondly, a guarantee of compliance with the Code will also be required of all organisations seeking major contracts with or franchises from government, local, state or national, in areas as diverse as transport, utilities, communications and waste management services. The big organisations, now in the private sector, which still ape the nationalized bossy behemoths of the past, will be compelled to adhere to the principle that their purpose is to serve.

5.0.5 Thirdly, compliance with the Code will be encouraged in the case of all other large private sector organisations. This encouragement will be backed up in the case of larger companies by the requirement that they report on their companies' compliance with the Code in their audited Social Responsibility Report, discussed in Section 7.9 below. We believe that a verified claim to comply with the Code will encourage public confidence and become a reason for people to prefer companies which comply to those which do not.

5.0.6 We see the Code as an important tool in fostering a climate of fair dealing and high quality service. It will be supplemented in due course by a set of service codes specific to particular sectors of the economy, which will set out a set of service requirements specific those individual sectors, to implement the general principles of the Code.

5.0.7 Appendix 1 sets out the principles which we see as fundamental elements of the *Universal Service Code*. Throughout the rest of this paper our recommendations will reflect its provisions. We do not seek in this paper to attempt to draft the Code in detail, but its direction and style are clear from the principles we have set out. The next four sections set out the policy background under the headings Responsiveness, Information, Consumer Protection and Effective Redress. We will also introduce an advice and pre-clearance system for companies in doubt about as to whether a proposed practice complies with the *Universal Service Code* or *the duty to trade fairly* to enable them to seek advice and clearance from the OFT or from Trading Standards Services.

## 6 Responsiveness



6.0.1 They call it *Faceless Britain*, a country where, despite a broadly prosperous economy and a wide range of goods and services on offer, people daily experience frustrations and disappointments in trying to secure reasonable service. Bad service, inaccessible call centres, exhausting and wasteful bureaucracy and procedures, in both public and private sectors, are part of everyday life in the UK. And this is worst for the most vulnerable, often the least articulate, who find it hard to work push-button options, who cannot easily use the internet, even assuming they do have access to it, and who find it difficult arguing over the phone with officials of large organisations, when they are lucky enough to find a person to talk to. The impact of poor service too is greatest on the most vulnerable: the benefits glitch which nobody will sort out, the tax credit help lines that go unanswered – these failings cause disproportionately greater distress to those least able to deal with them.

6.0.2 These are not conventional political issues, but they dominate people's lives far more than other traditional Westminster territory, and they make all the difference to getting people the help they need. For Liberal Democrats resolving these issues is central to our vision.

6.0.3 The problem has largely been the result of the widespread and often ill-thought-out introduction of massive IT systems for communication between organisations and their clients and customers. This has frequently been short-sighted and expensive. The cost savings have often been small compared to the huge investment in ineffective IT and costs have been frequently shifted to other government departments or the voluntary sector, or to ordinary people who have to travel further for appointments or to get information. Our departmentalised accounting methods fail to pick up such costs and so fail to assess the real costs of poor service to the nation's economy.

**Time Slots** If you make an appointment for the gas man to visit, arrange for a satellite dish to be installed, furniture to be delivered or the boiler fixed, you will usually be asked to wait at home for an entire morning or afternoon, if not the whole day. This often means having to use up valuable holiday time or taking unpaid leave. This is particularly difficult if you are on a low income or have inflexible working hours, especially if repeat visits are required. Our plans would require companies to give specific hour-long time slots for visits and deliveries.

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6.o.4 On the other hand, the disastrous reforms instituted over the last decade by Gordon Brown – especially as a result of the Gershon Review of efficiency in the public sector, which led to substantial expenditure cuts at the expense of service – have often made public services more difficult to access, harder to connect to a human being, more distant and bureaucratic, and have shifted costs and effort onto clients and advice centres<sup>1</sup>.

6.o.5 The centralised targets regime has made matters worse, in concentrating on numerically assessed outcomes at the expense of quality and customer service. A new round of heavy public expenditure cuts seems likely to make matters worse.

6.o.6 Liberal Democrats will tackle this by introducing the Universal Service Code. This will not use the failed approach of either targets or ISO 9000. It will guarantee that throughout their contact with big organisations, individual customers and clients will have easy access to human beings with the power to solve their problems and will receive the high quality of service to which they are entitled.

6.o.7 We believe that making public service more effective and immediate will not just make it more human, but will also cut costs. The savings will arise because better responsiveness will cut the cost of the 'failure demand' falling on some public services – the extra work they have to do because first contacts with the public haven't worked. Getting it right first time is usually the cheapest option as well as the most desirable.

6.o.8 In addition to introducing the Universal Service Code, Liberal Democrats will abolish control by government targets at national, state and local level. Where an organisation is subject to inspection, in the public or the private sector, the job of the inspectors will not be to fill in tick-boxes based on national targets. Instead inspectors will be tasked with assessing the organisation's success in defining and meeting its objectives and values. Inspectors will assess how well the organisation trains its staff and develops their ability to give good service to the public.

### Phone Access

Calling any of the helpline numbers at the Department of Work and Pensions ("DWP") costs 40p a minute from a mobile phone. Many people do not have BT landlines because of the cost, leaving them with no choice but to pay mobile rates when they need to contact public bodies. So, if you get just £67.75 a week in incapacity benefits and finds there is a mistake in your payment and you have to call the DWP for an hour, you find yourself charged £24 for the privilege. Our proposals would not only make that call free of charge, but also ensure that someone able to deal with the problem is available on the other end.

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<sup>1</sup> <http://www.independent.co.uk/news/business/news/brown-wants-whitehall-cuts-of-at-least-25-per-cent-a-year-407893.html> ; [http://www.pcs.org.uk/en/news\\_and\\_events/media-myths-about-civil-and-public-services/index.cfm](http://www.pcs.org.uk/en/news_and_events/media-myths-about-civil-and-public-services/index.cfm)



## 7 Information



7.0.1 People need accurate information about the products and services they buy if they are to make informed choices. Markets cannot work properly if people lack information about the goods and services they are considering. It is the availability of information which empowers people to make a meaningful choice.

7.0.2 Regulation is often needed to ensure the availability of relevant information, particularly where self-regulation and voluntary approaches have not been successful. It is also important in ensuring that information is provided in a helpful and meaningful format. There is considerable regulation already in force governing areas as diverse as nutrition labelling, safety certification, and consumer loans.

7.0.3 In general, Liberal Democrats support regulation as a means of empowering consumers and redressing power imbalances in the marketplace.

7.0.4 We also recognise that too much information - or, more particularly, poorly presented information - can do more harm than good.

### 7.1 Clear and concise information

7.1.1 At the moment, there is often an all or nothing approach to information. People are either given reams of small print, which they will probably never read, or a mere notice that 'statutory rights apply'.

7.1.2 Food labelling has seen competition between supermarkets and manufacturers on point of sale information. The recent Nutrition Signposting Evaluation for the Food Standards Agency, following considerable research has recommended a single front of pack labelling scheme that includes the words 'high, medium and low', traffic light colours and percentage of Guideline Daily Amounts. We welcome this kind of simplification.

7.1.3 With more complex products, clear labelling is particularly important. For appropriate products we will require key information to be highlighted in clear summary boxes to simplify comparison.

#### Buying British meat/products

If you pick up a packet of sausages from a supermarket fridge and it is labelled as British, your expectation is that it contains pork from pigs raised on British farms. In fact, the meat could come from anywhere and it could still be labelled British as long as it was processed in the UK. Shoppers are often prepared to pay more for British meat because of the high animal welfare standards of UK farms. We want food labelling to state clearly the country of origin, not the country of manufacture.

7.1.4 Government must also act to prevent the public being fed misleading information. Misleading or exaggerated health claims are a particularly insidious form of misinformation needing to be outlawed; the strongly-regulated pharmaceutical industry has succeeded in developing a relatively careful and accurate way of avoiding misleading health claims, but the same cannot be said for complementary remedies which should be subject to closer regulation.

## 7.2 Environmental Purchasing

7.2.1 There is growing evidence that consumers want to “go green”. Research by Forum for the Future in 2008 showed that 85 per cent of people want to be given more information about the environmental impact of products they buy. Consumer information can drive behaviour changes that help the environment, especially when provided alongside other measures, such as EU and UK government leadership, green taxes, well-targeted regulation and community engagement. [See Policy Paper 82, *Zero Carbon Britain* (2007)]

7.2.2 Many types of environmental label are in use. The trend is towards specific sustainability labels for different environmental issues. Successful, well-known examples include the Fairtrade mark, the Forest Stewardship Council logo and organic standards. There is, however, growing suspicion of business “greenwash” when companies misleadingly portray their products as more environmentally beneficial than they really are. Liberal Democrats will work with the Energy Saving Trust and the Carbon Trust (which we will merge into one organisation) and business and consumer representatives to develop standards and guidelines, with an independent certification scheme, for manufacturers’ and retailers’ own labels and declarations.

7.2.3 In light of the UK’s targets to reduce greenhouse gas emissions, carbon labelling is a priority. According to the CBI, consumers influence one quarter of all UK carbon emissions through the choices they make. Labels that demonstrate the carbon footprint of a product can help consumers to reduce the carbon impact of their purchases. The labels used on refrigerators, for example, have been effective at raising consumer awareness and promoting more effective product design. Carbon labelling can be applied to all products and services. Liberal Democrats welcome the Carbon Trust’s work to develop a carbon reduction label, which displays the embodied greenhouse gas emissions of a product, and the Carbon Trust Standard, which recognises carbon reductions across organisations. Current efforts at carbon labelling are not, however, as broad-based and consistent as they should be.

7.2.4 Building and extending an effective system of carbon labelling requires a commonly accepted measurement of products’ carbon footprints. Liberal Democrats welcome the BSI’s new Publicly Available Specification (PAS), PAS 2050, which measures the embodied greenhouse gas (GHG) emissions of goods and services throughout their entire life cycle – from sourcing raw materials, through to manufacture, distribution, use and disposal. PAS 2050 will help businesses to develop products or services with lower carbon footprints and to provide consumers and others with clear information about what is being done to reduce their climate change impacts. It will be reinforced by the Code of Good Practice for Product GHG Emissions and Reduction Claims, which aims to ensure that claims regarding their products’ emissions and emissions reductions are accurate.

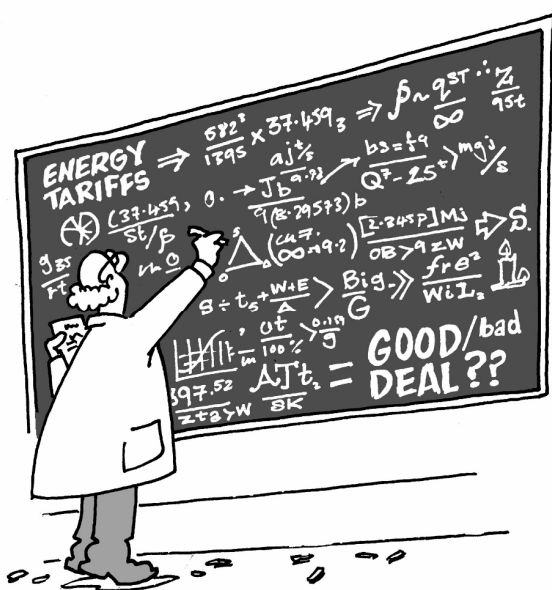
7.2.5 Liberal Democrats will work with the merged Energy Saving & Carbon Trust and business and consumer representatives to:

- Build consumers’ and manufacturers’ awareness and familiarity with the Carbon Trust Standard label, the Carbon Reduction Label and the PAS 2050 Standard, as preferred carbon labels.
- Develop pilot projects to promote the use of these preferred carbon labels.

- Encourage businesses to act on the information provided to reduce the climate change impact of their products.
- Develop an independent certification scheme for all carbon labels.

7.2.6 Lifecycle footprints for products can be very valuable but are not easily translated into consumer labels. In conjunction with the above work, Liberal Democrats will identify areas where lifecycle assessments can form the basis of consumer labels, to promote the most environmentally beneficial behaviours.

7.2.7 It is also important for the environment as well as for users that people can see in the case of utility and other regular supplies how much they are spending. Smart meters for electricity make this information available when introduced, but the principle is not confined to utilities. With the Universal Code of Service people will be able to get information about their current spending of all utilities and other cumulative spending on credit in real time.



### Publishing information on all available energy tariffs

Energy bills are confusing. There are thousands of tariffs and all kinds of claims and counter-claims by the big energy companies. When your gas or electricity bill lands on your doormat, it is difficult to know whether it represents a good deal or not. Finding out can be difficult, time consuming and nigh on impossible without internet access. To make sure that customers, and in particular the elderly and vulnerable, do not get ripped off or misinformed, the main details of all available tariffs should be printed on the energy bills themselves.

## 7.3 Financial Consequences of Transactions

7.3.1 Often consumers are not aware of the full financial consequences of their transactions. The “fine print” often conceals a great deal of detail in an unclear format. Much has been achieved in the UK in consumer credit and other fields to address this. However, there are serious gaps.

7.3.2 Examples include the sale of “bundled” financial products, which are sold with other goods, such as extended warranties and payment protection policies, which often represent bad value and offer restricted benefits to the people who buy them.

7.3.3 Future operating costs and maintenance costs are often also hidden. Notorious examples include replacement razor blades and printer cartridges.

7.3.4 Internet purchasing carries its own problems, as people are encouraged to confirm with a click their agreement to long and detailed contractual provisions that they are not expected to have read, without any requirement that the most important conditions be drawn specifically to their attention.

7.3.5 Our Universal Service Code will address these information deficiencies by ensuring that any organisation claiming to comply with the Code has to provide potential customers and clients

with sufficient clear information to enable them to make well-informed and reasonable assessments of the financial consequences of the transactions they make.

## 7.4 Informing People of Their Rights

7.4.1 The key to enabling people to enforce their existing rights is to improve their awareness and understanding of those rights, both their statutory and contractual rights and their rights of complaint and redress.

7.4.2 Liberal Democrats will oblige all suppliers of goods and services, whether in the private or public sectors, to provide clients and customers with a brief summary of their key statutory rights at the point of sale – whether by a sign at the till in shops or on the counter, a summary box on the back of the bill, receipt or agreement or other more innovative means.

7.4.3 Liberal Democrats will also require that all departments of government at national, state and local level make available to clients in easily accessible form and easily understood language information about how to complain about the service they receive and what to do if their initial complaints are not handled satisfactorily. This will be assured by the Universal Service Code, which will also apply to all clients of private sector organisations claiming to comply with the Code.

## 7.5 Towards Wider Corporate Responsibility

7.5.1 Liberals have long rejected the view that companies owe a duty only to their shareholders as this view fails to strike a balance between the pursuit of profit that is at the heart of free enterprise and the pursuit of social justice that is a cardinal goal of liberalism. Some social obligation ought to be the price of companies' enjoying both limited liability and the physical and social infrastructure that enables them to operate and earn income.

7.5.2 Liberal Democrats recognize that while a company's products might be of good quality, well packaged and reasonably priced having regard to costs and margins, people might nevertheless regard that company with distaste and not wish to buy its goods or services, if operatives were being exploited through poor working conditions or low wages, if its suppliers were being paid offensively low prices for raw materials or if its manufacture and distribution were damaging the environment.

7.5.3 Liberal Democrats are therefore firmly committed to the concept of corporate social responsibility, both for the fundamental reason that we wish to raise standards of corporate behaviour and reduce exploitation and because we believe that people should be entitled to receive information about the organisations with which they deal.

7.5.4 The Companies Act 2006 has moved towards recognizing corporate social responsibility. This requires the directors of quoted companies to provide an annual report, an Operating and Financial Review ("OFR"), on the economic, social and environmental impacts of their companies' activities. However, the Act is weak – only that which the directors deem to be "material" has to be reported, which means that negative factors can be ignored.

7.5.5 We will extend the requirement for producing an OFR, which we will re-name a *Social Responsibility Report*, to all companies listed on the Stock Exchange or AIM and to large private companies, being those too large to meet the EU criteria for small or medium enterprises. The Social Responsibility Report will be required to report fully on a company's trading procedures, sourcing of materials, employment practices and involvement in the communities in which it operates.

7.5.6 We will require the Social Responsibility Report to be audited by the statutory auditors but they will be able to engage the services of other suitably qualified professionals. The auditors will have to provide an opinion as to whether the statements made in the Social Responsibility Report are supported by evidence and the conclusions drawn reasonable.

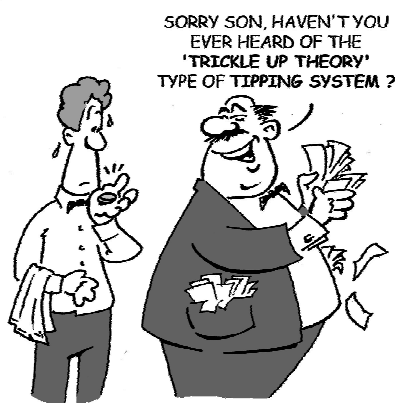
7.5.7 The audited Social Responsibility Reports will be published with qualifying companies' annual reports and on their web sites. We recognise that complying with this requirement will involve some costs for the companies concerned, which is why we have limited the requirement to larger companies and to those who seek public participation in their enterprises through the stock exchange.

7.5.8 The Social Responsibility Report will be required to report more fully on the environmental and sustainability implications of a company's trading activities than is the OFR, including the diversity of their procurement base, which in turn will improve the information available to people in this area.

7.5.9 We will add two further requirements for the Social Responsibility Report. First, such reports will have to demonstrate that the company complies with the general duty to trade *fairly*, described in more detail in Paragraph 8.2 below, by providing the directors' confirmation that the company's commercial practices do not offend against the Unfair Commercial Practices Directive and are in accordance with the general duty. Any findings of breach of the duty to trade fairly during a reporting year will have to be reported.

7.5.10 We will also make it a requirement that a company's Social Responsibility Report includes a report on its compliance with the Universal Service Code. We believe that this requirement will give the Code significant "teeth" in the private sector by ensuring that companies take compliance with the Code seriously, because companies claiming to comply with the Code will have to show that they do. We believe that few companies of any significant size will want to report that they do not comply with it.

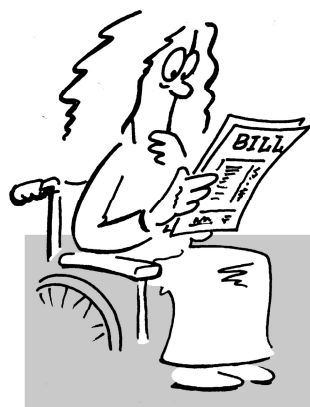
7.5.11 We regard the requirement for audit as an essential feature of the proposal for companies to submit a Social Responsibility Report. Company auditors, as part of their compliance work, are obliged to review policies, practices and procedures, and to examine particular transactions and customer relationships. They are in a unique position to know their clients' trading practices and to provide their opinion on those practices. The requirement for audit itself will raise awareness of the importance of compliance and the concern to avoid a qualified opinion will be a powerful incentive to ensure compliance. If an auditor's qualification to a report were recurrent or sufficiently serious, the OFT will have the power to open up an investigation.



### Waiters and Tipping

When you leave a tip at a restaurant it is not unreasonable to expect it to end up in the pocket of the waiter or waitress that has served you, or at least to be put into a pool for the staff in the restaurant. However, often this doesn't happen. If you pay a service charge on top of your bill it will often go straight in the restaurant's coffers and not to the staff member living on the minimum wage. Not only can companies do this, but there is usually no way for you to know whether your tip will go to staff or not. Our Code of Practice would require companies to make their tipping policy clear to customers.

## 8 Consumer Protection



SHE SOON BEGAN TO REALISE THAT SHE WOULD NEED TO APPLY FOR ANOTHER 'CRISIS LOAN' IN ORDER TO PAY FOR THE COSTS OF APPLYING FOR HER 1st CRISIS LOAN...

### 8.1 The Legal Framework

8.1.1 Consumer protection legislation in the UK and in the European Union has come a long way over recent decades. We list at Appendix 2 the main applicable statutes and regulations

8.1.2 Existing consumer law is fragmented and difficult for non-lawyers to access. People have no clear sense of their rights as consumers. There is no doubt that the law needs streamlining and simplification. This was one of the aims of the DTI's 2005 paper, "A Fair Deal for All". DBIS and the Law Commission are currently conducting a review of consumer law. However, it would be difficult to produce an all-embracing "Consumer Protection Act", because rights vary considerably between the products or services being purchased.

8.1.3 The Consumer Directorate of the European Commission is currently consulting Member States and the European Parliament on a draft Consumer Rights Directive (CRD) which aims to consolidate several existing European laws and remove inconsistencies across the EU. However, the Commission intends that the proposed CRD should achieve "maximum harmonisation", which would mean that Member States would not be entitled to provide greater levels of protection to people in their own countries than would be guaranteed by the Directive. This could prove a serious drawback, because the CRD would represent the lowest common denominator and protection for people in the UK could be diluted. Liberal Democrats will fiercely protect our hard-won consumer rights and will oppose their weakening in any way in the UK.

8.1.4 Liberal Democrats will seek to reform and supplement existing consumer law having regard to the recommendations of the current review. We will also attempt to simplify and streamline the existing law as promised but not achieved by the Labour Government. If this can be achieved by Directive at an EU-wide level, so much the better, but not at the expense of compromising existing protections available to people in the UK.

### 8.2 A General Duty to trade Fairly

8.2.1 We will also introduce a *general duty to trade fairly*, which will be imposed on all businesses, utilities and public sector organisations providing goods and services to the public under commercial terms. The Unfair Commercial Practices Directive 2005 introduces a general duty not to trade unfairly and in addition outlaws a number of particular practices identified as unfair (See Appendix 2). This is enforceable at the instance of the relevant regulatory authorities, who can invoke the criminal law in respect of a number of offences created under the regulations

involving unfair, misleading or aggressive practices. The *duty to trade fairly* will give to individuals, in addition to the right to complain of its breach to the regulatory authorities, a *private* right both to sue for damages in the courts for breach of the duty and to rely on a breach of the duty as a defence to actions brought by organisations to enforce contractual rights obtained by breaches of the duty. Thus an organisation in breach of the duty will be unable to enforce contractual provisions obtained by its own unfairness.

8.2.2 As discussed above, at paragraph 7.5.11, for larger companies compliance with the duty to trade fairly will be the subject of compulsory reporting by the directors in their Social Responsibility Report.



#### Bank clearing

With today's technology it is ridiculous that some of your cheques and online payments can take 3-9 days to clear. This gives the banks free use of your money, because your account is debited days before the payee's account is credited. This is unfair. It also causes unnecessary frustration for the payee, who has to wait to spend their own money, and worry and uncertainty for you, because you don't know whether the transfer has gone through. The technology for virtually instant money transfers is already available and widely used. Our plans would impose a duty to trade fairly, forcing banks to cut out these delays without the need for separate and cumbersome regulations.

### 8.3 License to Practise

8.3.1 In a number of trades, industries and professions, a license to practise, administered under statute (e.g. medicine and the law) or other, often self-regulatory arrangements (e.g. FENSA for double glazing supply and fixing, CORGI for heating) is required before businesses can hold themselves out as possessing the necessary expertise. Such licences are intended to act as guarantees of good quality and are useful, particularly where there may be serious health and safety consequences if goods or services are of a poor standard and where quality is difficult for an unqualified person to judge.

8.3.2 We believe that in many areas license to practise schemes could help improve training and quality and ensure businesses in them conform to an appropriate code of conduct. Generally we favour self-regulation where the relevant industry provides a suitable scheme for OFT approval. We will simplify and streamline OFT approval procedures, currently unnecessarily cumbersome, to enable self-regulatory schemes to be established effectively and expeditiously. There may be other occupations where further statutory licence to practise arrangements are required. The regulation of bailiffs may be a good example.

### 8.4 Insolvencies and Payments in Advance

8.4.1 There is considerable justifiable public anger about "Phoenix companies", those businesses and businessmen who are able to go into liquidation, often with so-called "packaged insolvencies", very soon to resume trading without paying their creditors in the same business as a different company. This usually affects suppliers and other business creditors, but often also causes loss and distress to individual customers who have paid money or booked services with companies that go into liquidation leaving unmet liabilities.

## Are We Being Served?

8.4.2 We believe legislation is needed to protect deposits taken from customers from the insolvency of a company. Some professional institutes and trade bodies operate indemnity schemes specifically for this purpose e.g. the Law Society, ABTA, National House Builders Confederation. Liberal Democrats will make it compulsory for all organisations taking customer deposits in excess of, say, £100 to provide deposit protection insurance where an indemnity scheme approved by the OFT is not in operation.

8.4.3 Furthermore, we will legislate to provide that where a company has taken payments in advance from individuals and then gone into insolvency leaving them without recourse, the directors will be prohibited from acting as directors of any other company without OFT approval.



MONEY DOWN THE DRAIN ?  
FISHING FOR LOST DEPOSITS...

### Deposit protection

If you pay hundreds of pounds on a deposit for a new sofa but the company goes bust before it is delivered, you will find it nigh on impossible to get that money back. You have to wait in line with other creditors in the insolvency, often getting little or nothing back and with nowhere else to turn. This can cause huge financial pressure, stress and uncertainty. We will introduce compulsory deposit protection to make sure customers can get their money back when a company goes under.

## 8.5 Pressure Selling

8.5.1 Some businesses are too aggressive in their sales methods. Liberal Democrats do not wish to constrain businesses from developing imaginative methods of advertising, marketing or selling their products. But we will introduce regulations to prevent businesses using techniques that exploit fears and vulnerabilities, invade privacy, become a nuisance or are so aggressive that prospective customers feel pressurised.

8.5.2 In the same way as it is now possible to complain about advertisements to the Advertising Standards Authority, we will encourage complaints from members of the public about pressure selling to a designated department within the OFT. A finding of unfair pressure selling will incur penalties and will be treated as a breach of the general duty to trade fairly and companies required to produce a Social Responsibility Report will be required to include an adverse finding in their Report.

## 8.6 Fraud

8.6.1 We list at Appendix 3 a brief description of a number of the most common scams currently used by fraudsters in the UK. There are, of course, many variants of these schemes and, at the margins, it is not always easy to determine which are legitimate and which are not.

8.6.2 Liberal Democrats believe that the UK government can and should take steps to make the public aware of the dangers of becoming involved with schemes that appear to offer big returns for comparatively small outlay. In particular government should operate a public warning system, including media advertising, of information held about current fraudulent activity.

8.6.3 Protecting people from scams is particularly complicated in the context of increased international trade, particularly over the internet. Fraudulent schemes often emanate from countries with limited or no regulation and no interest in preventing people in other territories



from being defrauded. If occasionally the authorities do succeed in closing them down, they simply start up again in other non-regulated territories.

8.6.4 Liberal Democrats will co-operate more effectively with international crime agencies and our European partners to share intelligence about dubious companies and organisations – making information about the dangers publicly available on a specially designated website and by placing general warnings in public buildings and by advertising. We will encourage those who have been defrauded or who have suspicions about an overseas business to assist the OFT in the dissemination of this information.

8.6.5 The OFT have set up a special unit, Scambusters, to investigate and take action with regard to fraudulent schemes brought to its attention. This unit has enjoyed a number of successes, including securing injunctions to shut down certain scams, but of their nature these are obtained after the fact.

8.6.6 Liberal Democrats will prioritise prevention by:

- Giving the OFT powers to be more proactive in investigating possible scams at a national and international level.
- Strengthening Trading Standards departments at a local level and encouraging them to seek out and stop unfair trading practices.

## 8.7 Consumer Protection for Children

8.7.1 Children need specific protection. In Autumn 2008, a ComRes poll showed 83 per cent of people felt that children and young people in the UK have too many commercial pressures on them. There is concern that young people are encouraged to buy more than they need and than their families can afford and real worry at the heavy promotion of undesirable products such as suggestive lingerie for six-year-olds and unhealthy foods and drinks. Younger children are increasingly targeted by advertising and tend to be more susceptible to it.

8.7.2 Families are often unaware of marketing tactics. Parents often feel powerless with the internet, as their children know more about the medium than they do. Companies are increasingly asking children for private information and monitoring their declared or implied preferences for marketing purposes.

8.7.3 Liberal Democrats will:

- Make it clear that regulators should treat brand websites as advertising and subject to the same regulations;
- Encourage businesses in the UK to promote family life and harmony and cooperation between peers – in the same way that food companies now promote healthy living messages.
- Require it to be made clear that all advertising on websites used by children, especially embedded techniques such as advergames (free online games which exist to promote specific products) and product placements, is indeed advertising.

## 9 Effective Redress and Enforcement



### Citizen's advice in the courts

Fear of complicated procedures and a lack of ability to get claims clearly expressed on paper often scare people off making small claims. Court staff can at present give only very limited advice on the nuts and bolts of making a claim, because they must retain impartiality. If you can get advice on filling in the forms at court that would make a huge difference. Citizens Advice would be willing to give such advice if the resources were made available for them to do so. We would resource Citizens Advice to give advice at court centres to potential litigants in small claims.

### 9.1 A Hierarchy of Redress

9.1.1 No system of rights and obligations can operate effectively if the enforcement of those rights and obligations is inefficient and inaccessible. Yet

currently the courts are largely inaccessible to ordinary people because of the cost of bringing cases before them and the regulatory authorities are perceived as remote and irrelevant. The local agency, the Trading Standards service, is poorly resourced and under-publicized, suffering from a lack of clarity about its role in helping people with complaints. As for complaints against local, state and national government departments, there are generally no accessible systems in place where people can obtain redress from any independent body.

9.1.2 We recognize that there is no scope for a one-size-fits-all system of redress. There is bound to be a hierarchy of redress, encompassing complaints, a range of dispute resolution arrangements, recourse to and intervention by the regulatory authorities and litigation.

9.1.3 In this paper we consider the following avenues to redress:

- Organisations' internal complaints systems.
- Trade and professional organisations' dispute resolution procedures.
- Ombudsmen.
- The role of public agencies and watchdogs.
- Regulators.
- The Trading Standards Service.
- Alternative dispute resolution ("ADR").
- Litigation, including class actions.
- Super-complaints.

### 9.2 Complaints Systems

9.2.1 Any department of government and any private sector organisation of reasonable size should have a well organised complaints handling system. This is essential to the maintenance of

public confidence and is also the only way that organisations can ensure they learn from their mistakes. Just as getting it right first time saves money, so does putting it right first time when complaints are made.

9.2.2 The complaints handler in any organisation should, where possible, having regard to the size of the organisation concerned, be independent of any personnel against whom the complaint is made, be bound to keep full and accurate records of all complaints made, of their investigation and final outcome.

9.2.3 Clients and customers should be able to find out, from the time of their first contact with an organisation to whom to address and how to lodge any complaint. Organisations should provide their customers and clients with up-to date information about the progress of their complaints.

9.2.4 Many complaints can be met with a simple but timely and genuine apology. We must change the culture in which apology seems to be avoided at all costs even when mistakes have clearly been made.

### **9.3 Trade and Professional Organisations' Dispute Resolution Procedures**

9.3.1 A number of trade organisations operate independent arbitration and dispute resolution services. These work with varying degrees of success. In principle Liberal Democrats support such informal arenas for the resolution of disputes by specialists. There is, however, always the danger that the dispute resolution personnel employed by such organisations will be perceived as biased, if not actually biased, in favour of their members.

9.3.2 It follows that it is crucial that when such services are established, great care is taken to make them both as transparent and as independent as possible. It is also important that their procedures are seen as entirely fair.

9.3.3 That said, Liberal Democrats believe that it is important that industries, trades and professions dealing with the public are encouraged to develop systems that afford their members' customers avenues of redress that are easily accessed, widely known and effective.

### **9.4 Ombudsmen**

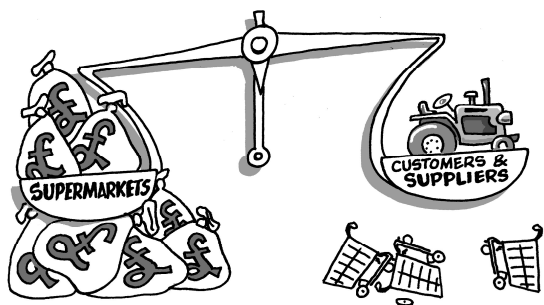
9.4.1 Ombudsmen have been established in a number of areas in recent years. Most ombudsman services work well: they are beginning to be widely known, they are respected and they achieve results. In financial services a single ombudsman service has been established to amalgamate the disparate services that previously operated in this field; the evidence is that this is working well.

9.4.2 We have concluded that there is a powerful case for establishing a single ombudsman service which will bring under its umbrella all the various consumer ombudsman services now in existence and ultimately extend the service across all industries providing goods and services directly to members of the public. As now, the ombudsman will have the power to order organisations to make redress to those whom they have served badly.

9.4.3 To begin with, this will be a 'virtual' single scheme. People with a complaint from any relevant sector will be able to seek help via a central contact point, but the detailed work on cases will continue to be done by the existing ombudsmen. However, the existence of a well publicised single access point to ombudsman services will be a significant advance.

## Are We Being Served?

9.4.4 Over time we will seek to unify the rules and structures of the various schemes as far as possible in accordance with the practice of the best. We will also identify other sectors, not yet served by ombudsmen, which will benefit from ombudsman protection such as Supermarkets. This again will help to make the service more widely understood as well as easier to navigate.



### Supermarkets ombudsman

The big supermarket chains are now so dominant that it is becoming increasingly difficult for people to shop elsewhere. The chains also have an ever-tightening stranglehold over British farmers and manufacturers. They have been accused of bullying farmers and other suppliers to cut prices lower than they can afford to take and agree to unreasonable terms. Our proposed supermarket ombudsman would not only help defend farmers and suppliers, but give shoppers increased choice, better products, more consumer confidence, and, in some cases, lower prices, while also helping to protect smaller shops and chains.

## 9.5 Watchdogs, Consumer Focus and Consumer Direct

9.5.1 On 1 October 2008, the new "Consumer Focus" organisation came into formal being (subsuming Energywatch, Postwatch and the National Consumer Council). Consumer Focus is an attempt to create a single statutory consumer organisation which has:

*"the right to investigate **any** consumer complaint if they are of wider interest, the right to open up information from providers, the power to conduct research and the ability to make an official super-complaint about failing services."*<sup>2</sup>

Consumer Focus is an advocacy body rather than a consumer advice service (such as Consumer Direct or Citizens Advice) or a statutory regulator. It remains to be seen if it can become a clear and visible presence to the general public seeking redress. Plainly, if it takes full advantage of its powers and is properly resourced, Consumer Focus may exercise a powerful enforcement role, to the benefit of all. Consumer Focus should overcome two of the central problems of consumer watchdogs, their diversity and relative inaccessibility.

9.5.2 Consumer Direct was established in 2006 to provide a one-stop source of information and advice. As its name implies, Consumer Direct may be approached directly by consumers with particular issues. Evidence so far indicates that this works at providing initial support and advice to consumers. However, lack of resource has caused frequent long delays. We will ensure that Consumer Direct receives the resources it needs to fulfil its objectives.

## 9.6 Regulation

9.6.1 Much in this paper has involved discussion of regulation. Liberal Democrats do not start from a pre-conceived generalized position that regulation is either good or bad. However, the vogue in recent decades under both Conservative and Labour administrations for "light touch" regulation has been largely discredited by the banking crisis. We will aim to identify such

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<sup>2</sup> See Consumer Protection from Unfair Trading Regulations 2008

regulation as is necessary and desirable to make markets work effectively - in the interests of the companies involved, of their clients and customers and of the public generally. Then such regulation as is needed must be introduced with clarity and expedition and enforced effectively. So we are committed to ensuring that the Regulators appointed are well organised and properly resourced so that the enforcement of regulations is effectively implemented.

9.6.2 At present when companies or other organisations act in breach of EU or domestic regulations neither the OFT nor other regulators has the power to order them to pay compensation to customers or clients who have suffered loss as a result of those breaches. Furthermore the regulators' fining powers are limited to cases involving breach of the regulations on competition. As a result, given how onerous it is for individuals to bring action in the courts against large organisations, often organisations upon whom they depend for services and often for quite small sums of money individually (e.g. actions to recover unlawful bank charges from banks), many such breaches go unpunished. Accordingly, we would amend the Enterprise Act to expand the fining powers of the OFT and other regulators to cover breaches of all consumer protection regulations and to give them the power to order organisations in breach of EU and domestic regulations to pay compensation to customers and clients who have suffered loss by reason of such breaches.

## 9.7 The Trading Standards Service

9.7.1 Liberal Democrats believe in acting locally where possible. Trading Standards Departments, run by local authorities under a statutory duty, are long-established enforcers of the public interest, tasked to investigate and penalize where necessary, traders who act in breach of consumer law. However they suffer from a chronic lack of funding and are not afforded the priority their job merits by many local authorities.

9.7.2 Trading Standards services enforce a vast array of legislation, much of it now European. We will ensure that Trading Standards services are properly funded to perform their functions, using the money saved by streamlining the functions of the OFT and the Competition Commission.

9.7.3 Trading standards departments would appreciate the opportunity to take up more individual cases where traders have acted unfairly to customers. Their doing so would help to enforce the provisions of the Unfair Commercial Practices Directive and of the general duty to trade fairly which we propose to introduce. This would involve widening the role of trading standards departments which is now largely limited to policing the regulations. We will therefore encourage local authorities to give a high priority to improving the resourcing and broadening the role of trading standards departments.

## 9.8 Alternative Dispute Resolution ("ADR") and Litigation

9.8.1 Litigation should only be a last resort. Even at best it is expensive, time consuming and stressful. Seldom do the sums at stake in disputes between people and their suppliers justify the cost, time and worry of bringing a case in court. That is why Liberal Democrats have supported the development of ADR and welcome schemes for mediation, conciliation of disputes and simple arbitrations, as ways of achieving the resolution of disputes without recourse to the courts.

9.8.2 Nevertheless some cases are bound to be litigated and in a society committed to the rule of law and to the right to a fair trial of civil rights and obligations guaranteed by the Human Rights Act, it is essential that our courts be made as accessible as possible. Yet, the emasculation of the legal aid system over recent years has left most potential litigants quite unable to afford legal representation to help them bring or defend a case.

## Are We Being Served?

9.8.3 The rules enabling small claims to be brought simply in the County Courts, introduced in 1973 and updated with the Woolf reforms in 1999, were driven by the demand for inexpensive, ready access to the courts for litigants in person. However, even the small claims procedure is too formal and insufficiently user-friendly.

9.8.4 Litigants need good information at the right time and in the right place. They need to know how to bring or defend their cases and how to fill in court forms. Accessible advice services at court, would help litigants understand the process, help prevent delays and improve the functioning of the courts. Citizens Advice have demonstrated an ability to provide reliable advice services and would be willing to do so, given the appropriate funding. We will increase funding to Citizens Advice to enable them to provide advisers at courts on a regular basis.

9.8.5 The increasing use of class actions and the new rules relating to them offer some hope of making litigation a more accessible consumer option, particularly where they can be funded by insurance arrangements. Class actions should be encouraged in those cases (only a limited number) where they are suitable.

## 9.9 Super-complaints

9.9.1 The OFT has powers to investigate and act upon "super-complaints" about uncompetitive or unfair market practices. These must be brought by designated referring agencies, which include the Which, Citizens Advice and Consumer Focus. When a super-complaint is made, the OFT has 90 days to publish a response. In appropriate cases the OFT can report uncompetitive practices to the Competition Commission. There have been a number of successful super-complaints, including super-complaints about private dentistry, care homes, payment protection insurance and credit card interest calculation. However there have been fewer than we would have hoped, because super-complaints are lengthy to prepare and costly to pursue. We will see that the procedures are simplified to enable more super-complaints to be successfully brought.

## 10 Appropriate Government

10.1 To ensure that the objectives we set out in this paper are given the high priority they deserve, we believe that there is a need for a senior member of the Government to champion the interests of people as clients and customers, including all those who seek or obtain public services, locally or nationally .

10.2 We do not believe this need has been met by the appointment of a junior minister for consumer affairs within the Department of Business, Innovation and Skills (DBIS). In part this is because there is an inherent potential conflict of interest between the interests of business, which the Secretary of State for BIS is bound to represent, and the interests of clients and customers. In part it is because people accessing goods and services have many of the same problems whether the suppliers are in the private or the public sector, whereas DBIS's remit concerns only private sector providers.

10.3 We propose replacing the current Minister for Consumer Affairs within DBIS with a more senior minister outside that department, a Minister for Goods and Services, probably with a cabinet office appointment. The role of the new minister will be the overall management of consumer policy and regulation, including competition policy, and the management of "client care" across the public services as well. The minister will therefore have a cross-cutting role that will involve consideration of some of the work of almost all departments. He or she will be entitled to sit in Cabinet when there are items on the agenda relevant to the minister's work.

10.4 At the last General Election, the Liberal Democrats called for the abolition of the Department for Trade and Industry, believing that there was a more efficient way to perform those government functions. However, as that department has now been substantially reformed, becoming first the Department for Business, Enterprise and Regulatory Reform (DBERR) and most recently the Department for Business, Innovation and Skills (DBIS), we no longer propose its abolition, although we would still aim to make savings in the bureaucracy where this is possible.

## 11 Individual Sectors

11.1 There are in the field of policy on goods and services myriad issues that go to specific sectors. We do not regard our remit as extending to covering every area of the economy that needs further specific regulation. The boxed illustrations throughout this paper demonstrate how our proposals would make a difference in some of the sectors concerned.



# Appendix One: The Universal Service Code

To comply with this Code all organisations providing a service directly to members of the public in the public and private sectors must demonstrate the following:

## 1 Responsiveness

- (1) That they provide the public with access to a telephone number that is free from both landlines and mobiles;
- (2) That the first options in their telephone response service include an option to speak to a human being where the client wishes to do so;
- (3) That they provide comprehensive training to staff who are in direct contact with members of the public in helping to deal with enquiries and solve clients' problems efficiently and politely;
- (4) That there are available by telephone members of their staff trained and able to handle individual clients' enquiries and empowered by the organisation to take action to assist clients where required;
- (5) That their staff are required to give customers their full names over the telephone, or, if there are security risks to staff in so doing, some other form of specific identification sufficient to enable the relevant staff member to be identified;
- (6) That when organisations in the course of their business need to call on people at home, they make (and keep) appointments to do so within a reasonably restricted timeframe (say an hour), rather than requiring them to remain at home for a half or a full day;
- (7) That they provide a full postal address and a contact telephone number on all their literature and on all their websites;
- (8) That in the case of organisations which are subject to inspection, the inspectors are required and empowered to assess both the degree to which they are responsive to their clients' needs and the quality of their staff training and development in that regard.

## 2 Information

- (1) That all information supplied to the public about their goods and services is truthful and not misleading;
- (2) That all information supplied to the public about their goods and services is presented in a clear and readily understandable form;
- (3) That they provide full and clear information about the price options available to clients and the terms on which different options are offered;
- (4) That they comply with relevant regulations and with recognized "best practice" in relation to labelling, certification and the provision of information to the public about their goods and services;
- (5) That they give the public reasonably full information about the environmental impact of their goods and services in a clear and understandable form
- (6) That the environmental information they provide to the public takes into account environmental impact over the whole life cycle of their products or services, from

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sourcing necessary raw materials through to manufacture, transport, maintenance, use and disposal;

- (7) That they provide full and clear information to their clients about the terms and financial consequences of the transactions they undertake, including information as to the maintenance and spares costs they will incur in keeping products in service throughout their life;
- (8) That they provide full and clear information to their clients of their statutory and contractual rights arising out of the transactions they undertake;
- (9) That where their customers or clients accrue liability to pay their bills on a cumulative basis over a period (e.g. all utilities, mobile phones, credit cards) they have systems in place to provide their customers or clients with current information as to their up-to-date expenditure;
- (10) That they comply fully with their obligation, where applicable, to provide a Social Responsibility Report, and to make it clear to clients and customers where to find that report.

### **3 Consumer Protection**

- (1) That their trade practices comply with the general duty to trade fairly;
- (2) That they have in place a quality assurance system appropriate to the goods and/or services they provide and to their size;
- (3) That if they take deposits they have in place satisfactory deposit protection insurance;
- (4) That if they provide goods and services to children, they avoid marketing that is inappropriate for children.

### **4 Effective Redress**

- (1) That they have in place an effective complaints handling system;
- (2) That they instruct their staff to apologize when it is clear that justified complaints have been made
- (3) That where a complaint is made which involves criticism of their staff, the complaints handling will be undertaken by staff independent of the staff about whom the complaint is made;
- (4) That they keep their customers or clients fully informed about the progress of the investigation of their complaints;
- (5) That they keep full and accurate records of all complaints, recording the nature of each complaint, its investigation and its outcome;
- (6) That where an appropriate, effective and widely used independent dispute resolution service is available within the industry, they offer their clients / customers access to such a service;
- (7) That where there is an applicable ombudsman service, they cooperate with the relevant ombudsman in relation to such enquiries as he or she may pursue;
- (8) That they provide to their clients and customers full information in clear terms about their complaints handling procedures, the availability of any applicable independent dispute resolution service and/or of the relevant ombudsman service.

## Appendix Two: Consumer Legislation

Act & year	Purpose
Consumer Protection from Unfair Trading Regulations 2008	<p>(Implements the European Directive <i>Unfair Commercial Practices</i>, 2005). Establishes common rules giving consumers the same protection against unfair (misleading or aggressive) practices and rogue traders wherever they are buying. Bans certain commercial practices, such as:</p> <ul style="list-style-type: none"> <li>• Falsely claiming to be a signatory to a code of conduct</li> <li>• "Bait" advertising</li> <li>• Direct exhortations to children</li> <li>• Pyramid schemes</li> <li>• Emotional/guilt/persistent pressure</li> <li>• Falsely giving the impression that a prize has already been won</li> <li>• "Inertial" selling.</li> </ul>
The Consumers, Estate Agents and Redress Act 2007	<p>Establishes a new "Consumer Focus", in place of the existing National Consumer Council, Postwatch &amp; Energywatch.</p> <p>Enables regulators in gas, electricity, post &amp; water sectors to require companies to join redress schemes.</p> <p>Requires estate agents to join an ombudsman scheme.</p>
<p>EU Consumer Policy Strategy 2007 – 2013</p> <p>Various European Directives have been/are being transposed into UK law<sup>3</sup></p>	<p>Addresses:</p> <ul style="list-style-type: none"> <li>• Fragmentation of EU internal market</li> <li>• Improving outcomes for consumers</li> <li>• Shifting focus of regulation towards "citizen-focused outcomes"</li> <li>• Guaranteeing access to essential services at affordable prices</li> <li>• Empowering citizens to make sustainable environmental choices.</li> </ul> <p>Priorities listed are:</p> <ul style="list-style-type: none"> <li>• Better monitoring of national consumer markets and policies</li> <li>• Better consumer protection regulation</li> <li>• Better enforcement &amp; redress</li> <li>• Better informed and educated consumers</li> <li>• Consumers at the heart of EU policies.</li> </ul>
Consumer Credit Act 2006 (updating 1974 Act)	<p>Act deals with:</p> <ul style="list-style-type: none"> <li>• Regulation &amp; licensing of consumer credit &amp; hire agreements and</li> </ul>

<sup>3</sup> Namely: Commercial Agents (86/653 EC), Consumer Credit (90/88), Distance Selling (97/7 EC), Doorstep Selling (85/577 EEC), General product Safety (92/59 EEC), Injunctions – Stop Now Orders (98/27 EC), Misleading and Comparative Advertising (84/450 EEC and 97/55 EC), Package Travel (90/314 EEC), Price Indications (98/6 EC), Product Liability (99/34 EEC), Sale of Goods and Associated Guarantees (99/44/EC), Sales Promotions (proposed Regulation), Timeshare (94/47 EC), Unfair Contract Terms (93/13 EEC).

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	<p>businesses (and related appeals from OFT decisions);</p> <ul style="list-style-type: none"> <li>• Provision of information to debtors and hirers after the agreement is made;</li> <li>• Unfair relationships between debtors and creditors;</li> <li>• Extension of the jurisdiction of the Financial Ombudsman Service established under the Financial Services and Markets Act 2000.</li> </ul>
Enterprise Act 2002	<p>Contains measures reforming competition law (formal creation of the OFT), strengthening consumer protection and modernising the insolvency regime.</p> <p>In particular, designated consumer bodies are able to make “super complaints” to the OFT, who is required to respond within 90 days. And makes it easier for consumers to bring damages claims due to anti-competitive behaviour.</p>
Distance Selling Regulations 2000 & Electronic Commerce Directive 2000 (Implementing European Directive <i>Consumer Protection (Distance Selling)</i> 1997)	<p>Applies to goods and services where contract is made without any face-to-face contact between supplier and consumer.</p> <p>Designates OFT and Trading Standards offices as designated enforcement authorities.</p>
Unfair Terms in Consumer Contracts Regulations 1994 (& Unfair Contract Terms Act 1977)	<p>Regulates clauses in contracts purporting to restrict or exclude liability under the implied terms as to title, correspondence with description, fitness of purpose etc.</p> <p>Outlines what could constitute “unfair” in a standard (non-negotiated) term.</p> <p>Also requires terms of contract to be in plain, intelligible language.</p> <p>1977 Act states that a trader cannot use an exclusion clause to exclude liability for death or injury resulting from negligence.</p>
Supply of Goods and Services Act 1982  (amended by the Sale and Supply of Goods to Consumers Regulations 2002)	<p>Requires a supplier of a service (in England, Wales &amp; NI) to act with reasonable care and skill and, unless agreed to the contrary, within a reasonable time and charge.</p> <p>Consumer can seek redress if contract is breached and can seek refund/repair/replacement or compensation (damages)</p>
Sale of Goods Act 1979  (amended by the Sale and Supply of Goods to Consumers Regulations 2002)	<p>Goods must “conform to contract” (as described, fit for purpose, satisfactory quality as judged by a “reasonable person”).</p> <p>Responsibility lies with <i>seller</i>, not manufacturer.</p> <p>Purchasers can demand money back, <i>and</i> damages equating to the cost of repair or replacement</p>

<p>Trading Standards (Various Acts from 1974 – 2002)<sup>4</sup></p>	<p>Trading Standards offices are a local government service which enforce the laws that govern the buying, hiring and selling of goods and services. They cover:</p> <ul style="list-style-type: none"><li>• Fair trading</li><li>• Consumer safety</li><li>• Weights &amp; Measures</li><li>• Consumer credit</li><li>• Under-age sales</li><li>• Food safety</li><li>• Animal health &amp; welfare</li></ul>
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<sup>4</sup> The Weights and Measures Act 1985; The Trade Descriptions Act 1968; The Consumer Protection Act 1986; The Consumer Credit Act 1974; Enforcement provisions under Part 8 of the Enterprise Act 2002.

## Appendix Three: Common Scams

**Directory Advertising** – organisation offers free listing in directory, obtains a signature for listing then invoices substantial sum claiming this was contracted. In large businesses these invoices sometimes slip through the controls

**Church Cults** – organisation establishes a church or religious denomination under self proclaimed minister. Uses associates to entice in “congregants” who are required to tithe their income and purchase the cult’s services (including insurance and mortgages - which for some reason (presumably for the same as those that exclude most charges by bona fide religious orders) are not covered by FSA).

**Holiday Clubs** – purchasers are sold time slots in perpetuity at holiday villages which they can exchange for other slots at other villages within the club. Apart from the questionable selling methods of these organisations and the misleading information they use, these organisations make substantial annual management charges and the overall return on the outlay, in comparison to the cost of similar accommodation independently booked, is poor.

**Property Clubs** – these involve purchasing a share of one or more investment properties, usually offering “guaranteed” minimum yields. The properties are often found to be sub-standard buildings that are used for short term rentals (often DSS) and which experience high levels of voids.

**Pyramid Selling** – “partners” are recruited to sell a range of products and have to outlay a substantial sum to purchase stocks. They are encouraged to find other “partners” and sell stock to them and earn extra commission. The only people to make money are those at the top of the pyramid - those at the bottom can’t sell the stock and would need to recruit impossible numbers of “partners” in order to recover their investment.

**Work at Home Schemes** – there take various forms but again recruits are invited to purchase stocks or pay a franchise fee to undertake basic poorly paid administrative tasks for which there may or may not be an ultimate user. Some schemes seek home workers to act as recipients for illicit funds and to perhaps unwittingly “launder” them by making legitimate purchases on the fraudsters’ behalf for which they will be paid a commission.

**Lottery** - Targets are notified that they have won a large sum of money in a lottery that they have not even entered but that to release the prize they must pay administrative charges. This fraud also uses **Premium Rate Phone Calls** so that when the “prize winner” calls to claim the prize they are kept on the line whilst a premium charge is being ratcheted up.

**419** – so-called because of section 419 of the Nigerian Criminal Code which deals with obtaining money under false pretences, but is known under various other names. Targets are invited to assist the fraudster to transfer “unused” funds from government contracts by making available their bank account and paying administrative charges to release the money.

# Policy Equality Impact Assessment

		Yes/No	Comments
1.	<b>Will the outcomes from the policy paper affect one group less or more favourably than another on the basis of:</b>		
	<ul style="list-style-type: none"> <li>Race, Ethnic origins (including gypsies and travellers) and Nationality</li> </ul>	No	
	<ul style="list-style-type: none"> <li>Gender</li> </ul>	No	
	<ul style="list-style-type: none"> <li>Age</li> </ul>	No	
	<ul style="list-style-type: none"> <li>Religion, Belief or Culture</li> </ul>	No	
	<ul style="list-style-type: none"> <li>Disability – mental and physical disabilities</li> </ul>	No	
	<ul style="list-style-type: none"> <li>Sexual orientation including lesbian, gay and bisexual people</li> </ul>	No	
2.	<b>Is there any evidence that some groups are affected differently?</b>	No	
3.	<b>Is there a need for external or user consultation?</b>	No	
4.	<b>If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?</b>	N/a	
5.	<b>Is the impact of the policy/guidance likely to be negative?</b>	No	
6.	<b>If so can the impact be avoided?</b>	N/a	
7.	<b>Are there alternatives to achieving the policy/guidance without the impact?</b>	N/a	
8.	<b>Can we reduce the impact by taking different action?</b>	N/a	

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*This paper has been approved for debate by the Federal Conference by the Federal Policy Committee under the terms of Article 5.4 of the Federal Constitution. Within the policy-making procedure of the Liberal Democrats, the Federal Party determines the policy of the Party in those areas which might reasonably be expected to fall within the remit of the federal institutions in the context of a federal United Kingdom. The Party in England, the Scottish Liberal Democrats, the Welsh Liberal Democrats and the Northern Ireland Local Party determine the policy of the Party on all other issues, except that any or all of them may confer this power upon the Federal Party in any specified area or areas. The Party in England has chosen to pass up policy-making to the Federal level. If approved by Conference, this paper will therefore form the policy of the Federal Party on federal issues and the Party in England on English issues. In appropriate policy areas, Scottish, Welsh and Northern Ireland party policy would take precedence.*

*Many of the policy papers published by the Liberal Democrats imply modifications to existing government public expenditure priorities. We recognise that it may not be possible to achieve all these proposals in the lifetime of one Parliament. We intend to publish a costings programme, setting out our priorities across all policy areas, closer to the next general election.*

### **Working Group on Consumers**

*Note: Membership of the Working Group should not be taken to indicate that every member necessarily agrees with every statement or every proposal in this Paper.*

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